

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 WESLIE MARTIN,

Case No. 3:21-cv-00365-RCJ-CSD

4 Plaintiff,

ORDER

5 v.

6 STATE OF NEVADA, et al.,

7 Defendants.

8 **I. DISCUSSION**

9 On September 25, 2023, the Defendants filed a suggestion of death stating that
10 Plaintiff, a prisoner in the custody of the Nevada Department of Corrections ("NDOC"),
11 has died. (ECF No. 15.) The Court had previously issued a screening order that stayed
12 the case to give the parties an opportunity to settle their dispute. (ECF No. 13.)

13 Pursuant to Federal Rule of Civil Procedure 25(a)(1), "[i]f a party dies and the claim
14 is not extinguished, the court may order substitution of the proper party. A motion for
15 substitution may be made by any party or by the decedent's successor or representative.
16 If the motion is not made within 90 days after service of a statement noting the death, the
17 action by or against the decedent must be dismissed." Fed. R. Civ. P. 25(a)(1). As such,
18 if there is no motion for substitution within 90 days of the date of this order, this case will
19 be subject to dismissal.

20 **II. CONCLUSION**

21 For the foregoing reasons, it is ordered that if there is no motion to substitute filed
22 within 90 days, this motion will be subject to dismissal.

23
24 DATED THIS 28th day of September 2023.

25
26 
27 UNITED STATES MAGISTRATE JUDGE
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